

INTEROFFICE MEMO

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County of San Bernardino

DATE February 15, 2013

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FROM **TOM HUDSON**
Director of Land Use Services Department

TO **HONORABLE BOARD OF SUPERVISORS**

SUBJECT **REPORT ON URGENCY INTERIM ORDINANCES 4164 AND 4168
ESTABLISHING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT
OF ALCOHOL AND DRUG FREE FACILITIES AND ALCOHOLISM OR DRUG
ABUSE RECOVERY OR TREATMENT FACILITIES**

Purpose of Communication

There will be a public hearing item on the February 26, 2013 Board of Supervisors meeting agenda proposing an extension of the temporary moratorium on Sober Living Facilities and residential Alcohol/Drug Treatment Facilities treating seven (7) or more persons, enacted by Urgency Interim Ordinances 4164 and 4168. State law requires a written report to be issued ten (10) days in advance of the public hearing to consider extension of the moratorium, stating the status of work in progress to solve the conditions that led to adoption of the moratorium. Specifically, Government Code section 65858(d) requires the legislative body to issue this written report describing the measures taken to alleviate the condition which led to the adoption of an urgency ordinance.

Background – Previous Board Actions

Interim Urgency Ordinance 4164 was enacted on April 10, 2012 (Item 74) for a 45 day period, and subsequently extended for 10 months and 15 days by Interim Urgency Ordinance 4168, enacted on May 22, 2012 (Item 94). Absent any additional action, Interim Urgency Ordinance 4168 would expire April 6, 2013. Pursuant to Government Code § 65858(d), a proposed extension ordinance would lengthen the moratorium for an additional twelve (12) months, or until April 6, 2014.

Reasons for the Moratorium

Interim Urgency Ordinance 4164, and subsequently extended by Interim Urgency Ordinance 4168, was originally adopted for the following reasons:

- Other public entities have reported adverse secondary effects from these types of transitory residential uses, including overcrowding, commercial use of residential property, crime, traffic impacts, insufficient parking, and noise. Absent this ordinance, such transitory residential uses could possibly be

located in close proximity to each other or operated as “integral facilities” so as to create an overconcentration of such uses.

- It is anticipated that the County will receive a number of applications to construct facilities for or otherwise establish Sober Living Facilities and Alcohol/Drug Treatment Facilities treating seven (7) or more persons, as those terms are defined in Interim Urgency Ordinances 4164 and 4168.
- Existing zoning regulations do not adequately address the establishment of Sober Living Facilities or Alcohol/Drug Treatment Facilities treating seven (7) or more persons.

Measures Taken to Alleviate the Conditions Which Led to the Adoption of the Ordinance

Following the adoption of Interim Urgency Ordinance 4164, staff began studying and evaluating possible approaches to the issues outlined in Interim Urgency Ordinance 4164. On May 22, 2012, the Board voted to adopt Interim Urgency Ordinance 4168, which extended the Moratorium for an additional 10 months and 15 days.

Ordinances 4164 and 4168 were adopted in recognition that Sober Living Facilities and Alcohol/Drug Treatment Facilities, both of which provide housing for the disabled, were not adequately addressed in the County's existing Development Code. In fact, unlicensed (group home) facilities, such as a Sober Living Facility, are not specifically listed (and therefore not permitted) by the County's existing Development Code in any residential zoning district. Conversely, Alcohol/Drug Treatment Facilities treating seven (7) or more persons (as a licensed Social Care Facility) are permitted in both single family and multi-family zones, subject to a conditional use permit.

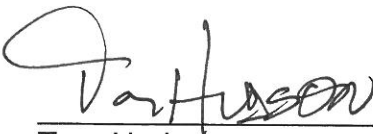
Since Interim Urgency Ordinance 4164 was adopted on April 10, 2012, staff has conducted an extensive review of the legal and policy issues involved in regulating group homes, such as Sober Living Facilities and Alcohol/Drug Treatment Facilities. This review has included evaluation of regulations adopted by other California cities and counties, as well as the recommendations of the American Planning Association (APA). It also has involved several meetings among County departments likely to be involved in such regulations. Representatives of the County Land Use Services Department have also met with residents and representatives of various group home advocacy groups to receive their input about the process. Staff has diligently researched and analyzed relevant State and Federal legislation, and recent Court cases. It is important that the County take the time provided by Ordinances 4164 and 4168 to carefully and thoughtfully assess

the concerns that residents have brought forward, analyze the impacts created by these types of transitory uses in residential zoning districts, develop regulations that are tailored to the impacts, protect the community, and comply with federal and state fair housing laws.

Significant progress has been made and Development Code Amendments have been drafted to meet the objectives to (1) preserve the character of residential neighborhoods, and (2) provide housing opportunities for disabled residents. Staff anticipates presenting proposed Development Code Amendments to the Planning Commission no later than April of 2013, which would lead to a presentation to the Board of Supervisors by June 2013. In order to provide time for the Planning Commission and the Board to evaluate staff recommendations and the feedback from the public hearing process, as well as unforeseeable issues that may arise, staff recommends extending the moratorium for the maximum twelve-month period provided by Government Code Section 65858. Staff will concentrate our best efforts to minimize the amount of time required to complete the proposed amendments in a manner that meets the stated objectives.

Duration of the Extension Ordinance

If adopted by the Board, the ordinance extending the moratorium would cause the moratorium on the establishment of (1) Alcohol and Drug Free Facilities and, (2) Alcoholism or Drug Abuse Recovery or Treatment Facilities treating seven (7) or more persons, both subject to reasonable accommodation, to be extended until April 6, 2014. No further extensions of the temporary moratorium would be permitted under state law after this twelve month extension, and adoption of new regulations before April of 2014 would end the moratorium sooner.



Tom Hudson
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